

## **GPRA Modernization Act: Overcoming Challenges to Cross-Agency Collaboration**

### **ACUS Report Outline – July 1, 2013**

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## **Background and Rationale**

The GPRA Modernization Act of 2010 requires development of government-wide priority goals and increased inter-agency coordination. This study outline details the research objectives, methodology and anticipated structure of a study focused on the GPRA Modernization Act of 2010 requirements for cross-agency collaboration, the constraints on such collaboration and potential tools to further enhance collaboration across agencies. The study will focus primarily on legal constraints as perceived and experienced by government officials and agency managers engaged in or with cross-agency priority (CAP) goal projects and other cross-agency initiatives.

While observers and researchers have commented on constraints to collaboration across agencies, a thorough documentation of key constraints and development of recommendations to overcome those that are amenable to change have not been undertaken. These gaps form the underlying rationale for the study. Although comprehensive documentation of challenges and recommendations is beyond the scope of the study, the research will examine approximately three case studies, drawing from Cross-Agency Priority Goal projects and other cross-agency initiatives – tentatively identified as current projects concerning energy efficiency, food safety and veterans' homelessness. The study will also focus on cross-agency challenges and tools associated with rulemaking, grants administration and other management activities across agencies. The report and recommendations are intended to offer concrete proposals and to illuminate issue areas that merit further attention in the future.

## **Research Objectives**

The research objectives are to (1) examine the Act's requirements for cross-agency collaboration; (2) identify existing constraints (real or perceived) to collaboration (with a particular focus on legal constraints); (3) highlight tools available to help agencies collaborate; and (4) recommend potential new (or enhanced) avenues of collaboration. Specific issues to be addressed by the study are listed in the bullet points below.

The study is intended to produce a set of recommendations for consideration by the Conference which highlight existing tools and identify new or enhanced tools that agencies may use to improve cross-agency collaboration and to prevent constraints

(particularly perceived or real legal constraints) from unduly inhibiting effective collaboration.

Given the time and resource constraints of the study, it is beyond the scope of the present project to review in depth all laws and regulations that constrain cross-agency collaboration or to examine all of the CAP goal projects. However, the study is intended to focus on the most prevalent or challenging constraints and the more promising tools for collaboration.

Among the key research questions guiding the study are the following:

1. What are major challenges (perceived or real), particularly legal challenges, to cross-agency collaboration that have become evident as the CAP goal projects and other cross-agency collaborative initiatives have progressed?
2. What practices have agencies or cross-agency projects developed to overcome or work within the constraints posed by each challenge?
3. What recommendations are suggested for legislation, regulatory or administrative changes and improvements to facilitate cross-agency collaboration while preserving administrative integrity and feasibility?

## **Research Strategy and Methodology**

Seven primary areas of legal constraint will form the basis for background research and interviews with agency and related experts. If other areas of concern emerge in interviews, these areas will be added to the scope of the research if possible. The seven areas include:

- Laws and regulations which may impede cross-agency collaboration, such as requirements affecting the division of labor, resources, authority and responsibility when agencies seek to collaborate;
- The legal authorities, roles, and models that individuals appointed as Cross Agency Priority (CAP) Goal leaders might use in performing their duties;
- Legal requirements under the federal budget system which restrict the use of funds in ways that may constrain cross-agency collaboration;
- The interplay between collaboration, which can often lead to shared accountability, and legal requirements that assign accountability for implementing a policy to one particular agency;
- The role of contracts, interagency agreements and other legal documents in cross-agency collaboration;
- The interplay between cross-agency collaboration and laws requiring agencies to make information available to the public; and
- The role of agency general counsels, inspectors general and other agency attorneys in advising senior agency officials and those non-attorney staff who are coordinating and implementing cross-agency collaboration efforts.

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In brief, the research strategy is to populate the cells in the table below with data and information drawn from an examination and review of documents and other, related research and writing and from structured interviews with key experts, primarily from the federal government. This table arrays types of challenges to cross-agency collaboration against specific dimensions of cross-agency projects; legal expertise and input; development and use of various tools to overcome challenges; and a set of emergent recommendations and their feasibility. Thematic analysis of these data across types of challenges, types of projects and types of expertise will form the key results to be described in the report and will form the basis for a set of recommendations to improve administrative and legal procedures, where feasible, to facilitate cross-agency collaboration under the GPRA Modernization Act.

<b>Challenge type</b>	<b>CAP Goal and other project specifics</b>	<b>Legal expertise: insight, experience, specifics</b>	<b>Tools and promising practices</b>	<b>Emergent recommendations; path and feasibility</b>
Resources				
Federal budget system, legal requirements and restrictions				
Division of labor				
Personnel rules and restrictions				
Contracts, interagency agreements, other legal documents				
Public information: laws regarding making information available to the public				
Authority and accountability: restrictions/constraints on shared accountability				
Goal leaders: use of legal authorities, roles, and models for collaboration				
Legal expertise and counsel: role of legal counsel, inspectors general, other staff attorneys in advising senior agency officials and staff re cross-agency				

coordination and implementation of efforts				
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The study will examine a subset of the current Cross-Agency Priority (CAP) Goal projects and other current cross-agency projects with a view to describing and explaining the mechanisms and procedures used to develop and sustain collaboration across agencies. The focus of collaboration under the GPRA Modernization Act of 2010 has been a set of Cross-Agency Priority (CAP) goals that are coordinated by OMB officials working with federal agencies and a variety of other cross-agency initiatives. Each CAP goal has a goal leader responsible for leading the effort. Existing cross-agency structures and processes – including working groups, task forces, councils and inter-agency committees – are to be leveraged by CAP goal leaders. Given the scope of the study, it is expected that approximately four cross-agency projects will be examined supplemented with interviews with key experts associated with other cross-agency initiatives. The selection of projects will be guided by the results of a set of framing interviews with key experts at oversight and other agencies with knowledge of the CAP goal and other projects and their core organization, characteristics and current status. The study will examine challenges to collaboration that have been encountered by cross-agency project goal leaders and other project managers. In addition, the study will focus on perceived and real legal challenges to cross-agency collaboration through a set of interviews with legal experts – general counsel, inspectors general and other agency attorneys -- as well as government officials who are advised by them in the process of coordinating and implementing CAP goal and other cross-agency projects.

The study will review, examine and summarize academic and policy research on cross-agency collaboration and challenges to it focusing on the seven issue areas outlined above. Government and related reports from GAO, CRS, OMB and other organizations, as well as reporting in major federal government news outlets, will be examined. The study will identify laws and rules that constrain cross-agency collaboration. Throughout, the study will attempt to distinguish agency practice and perceptions of constraints from actual law and regulations.

Structured interviews will be conducted to assist in refining the framing of the study. These discussions and findings from them are anticipated to help identify variation in challenges across agencies and policy domains, conditions that underlie variation in challenges and variation in tools (defined broadly as practices, technologies, and other steps used by public managers and other experts) to work within or to overcome, at least partially, challenges to cross-agency collaboration. In addition to interviews with agency personnel, interviews will be conducted with oversight agencies and other entities that either impose or facilitate responses to challenges to cross-agency collaboration.

### **Snowball Sampling and Structured Interviews**

To identify interviewees, the study will use snowball sampling – “a technique for gathering research subjects through the identification of an initial subject who is used to provide the names of other actors.” The method is employed to “overcome the problems

associated with understanding and sampling concealed populations.” It is one of “a wider set of methodologies that takes advantage of the social networks of identified respondents ... [to produce an] escalating set of potential contacts.”<sup>1</sup>

1. A set of framing interviews have been undertaken and will be used to refine core topics and to identify a set of cross-agency projects for further study. Given the limited time and resources for the study, the depth of examination of each project will depend upon availability of interviewees, number of agencies involved and other factors. The objective is to interview across a variety of projects to identify various types of challenges and responses to them and other key sources of variance.
2. Drawing from the results of the first set of interviews, a second round of structured interviews will be conducted with project principals, including cross-agency project leaders and key managers. These interviews will be used to identify and describe key challenges to cross-agency collaboration across legal areas including authorities, data sharing, finance and budget, and other constraints across functional areas. The study will seek to identify variance in the nature of these legal challenges across project type, agency type, level and type of collaboration and other dimensions that emerge from interviews.
3. A third round of structured interviews will be conducted with legal counsel, inspectors general and other legal experts with knowledge of or responsibilities associated with cross-agency projects. This phase of interviewing and data gathering is meant to further specify operational and program issues in terms of legal perceptions, analysis, risk, and practice. In these interviews and those of the second round, the study will examine to what extent and in what ways agency managers interact with various legal advisors to identify challenges to cross-agency activity and to develop tools to overcome those challenges in the pursuit of the GPRA Modernization Act requirements. Here legal experts may describe tools and practices to improve processes and interactions across functional specializations. One objective is to identify variance in “settled” versus emerging or ambiguous legal or regulatory rules.

It is anticipated that the third round of interviews may be conducted in part through a standardized list of questions that may be circulated by ACUS staff to legal counsel, inspectors general and other agency attorneys. The feasibility of this approach will be evaluated as the interviews and other data gathering activities proceed.

These “rounds” of interviews would not necessarily be conducted in strict sequence. Rather, they are meant to indicate how interviews with various types of stakeholders might build as specific knowledge of concrete projects is gathered.

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<sup>1</sup> See, for example, Rowland Atkinson and John Flint, “Snowball Sampling,” in Michael S. Lewis-Bech, Alan Bryman and Tim Futing Liao, editors, *Sage Encyclopedia of Social Science Research Methods*, 2004.

The CAP Goal and other cross-agency projects vary in terms of maturity, that is, progress already made in formulation and implementation of various subprojects and activities. It is hypothesized that cross-agency projects that have made the most progress to date in terms of development and implementation are likely to have encountered various challenges to cross-agency collaboration including legal challenges. Therefore, a subset of these projects will constitute the primary focus for data collection.

## **Tentative Framework for the Report**

The draft report will include a detailed description of research results and conclusions as well as a set of proposed recommendations for use by Conference staff in developing recommendations for Committee consideration. The draft report, to be submitted to the Conference in early September 2013 will be in a form suitable for distribution to the appropriate Conference committee(s) for their review. From September to November 2013, the report will be reviewed by the ACUS Chairman, Conference staff, Conference committees or members, and/or public commenters and will be revised and modified accordingly by the study author to take account of and to incorporate input and feedback. Although the report will be the work of the author, the actual recommendations will be those of ACUS.

The key sections of the report are expected to include but are not limited to:

### **1. Major provisions of the GPRAMA Modernization Act of 2010 regarding cross-agency collaboration**

As a public document it is important to include a review of the legislation, its major provisions regarding cross-agency collaboration and associated guidance and documentation.

### **2. Identification of existing constraints (real or perceived) to cross-agency collaboration with particular focus on legal constraints**

This and other sections of the report will integrate and report results of the literature review and, in particular, the structured interviews. Variance across CAP Goal and other cross-agency projects and other systematic sources of variation in challenges will be noted.

#### **2.a. Laws and regulations which may impede cross-agency collaboration**

- requirements affecting division of labor and use of personnel
- requirements affecting resources: primarily legal requirements under the federal budget system which restrict the use of funds in ways that may constrain cross-agency collaboration

- requirements affecting authority and responsibility when agencies seek to collaborate
- the interplay between collaboration, which can often lead to shared accountability, and legal requirements that assign accountability for implementing a policy to one particular agency
- the role of contracts, interagency agreements and other legal documents in cross-agency collaboration
- requirements for making government information available to the public and their potential effect on cross-agency collaboration

### **3. Tools available to help agencies collaborate**

This section will describe the tools that agencies and cross-agency projects have developed or that exist in law or regulation to facilitate and advance cross-agency collaboration. They include but are not limited to the following:

3.a. GPRAMA Modernization Act of 2010: relevant provisions

3.b. Legal authorities, roles and models that individuals appointed as CAP goal leaders might use in performing their duties

3.c. The role of contracts, interagency agreements and other legal documents in cross-agency collaboration

3.d. and following including technological, organizational, procedural and other tools  
TBD

### **4. The role of legal expertise and counsel in cross-agency collaboration**

This section will report the results of interviews to describe the various roles of agency general counsels, inspectors general and other agency attorneys in advising senior agency officials and those non-attorney staff who are coordinating and implementing cross-agency collaboration efforts. It will report on the potential to improve and leverage these sources of advice and expertise to identify and counteract perceived and real challenges to cross-agency collaboration and to develop tools to meet some of these challenges.

### **5. Recommendations**

The goal of the recommendations is to include best practices and lessons learned from the CAP goal and other projects examined in this report in order to provide key points that agencies should consider when faced with legal constraints (perceived or real) in conducting cross-agency collaboration.

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The specific recommendations are to be determined.